

No. 07-22-00341-CV

In the Seventh Court of Appeals
Amarillo, Texas

FILED IN
7th COURT OF APPEALS
AMARILLO, TEXAS
3/30/2023 10:25:45 AM
BOBBY RAMIREZ
Clerk

In re CITY OF AMARILLO, TEXAS

CITY OF AMARILLO, TEXAS,
Appellant/Cross-Appellee

v.

ALEX FAIRLY,
Appellee/Cross-Appellant

On Appeal from the 320th District Court
Potter County, Texas
Trial Court Case Number: 110998-D-CV

**RESPONSE TO APPELLANT/CROSS-APPELLEE CITY OF AMARILLO,
TEXAS' UNOPPOSED MOTION TO ENLARGE AGGREGATE WORD
LIMIT AND IN THE ALTERNATIVE UNOPPOSED MOTION FOR
LEAVE TO ENLARGE AGGREGATE WORD LIMIT**

Appellee/Cross-Appellant Alex Fairly files this Response to Appellant/Cross-Appellee's Motion to Enlarge (1) Word Limit For Reply Brief on the Merits in Principal Appeal and (2) Aggregate Word Limit. Appellee/Cross-Appellant

disagrees with the City's interpretation of Rule 9.4(i)(2)(B) and does not agree that he exceeded the aggregate word limit by 929 words by filing three briefs totaling 27,929 words in a cross-appeal and primary appeal. Appellee/Cross-Appellant contends his briefs comply with Rule 9.4. However, in the alternative, and to the extent the Court concludes Appellee/Cross-Appellant Alex Fairly exceeded the aggregate allowable word limit, Appellee/Cross-Appellant respectfully moves for leave to enlarge the aggregate word limit by 929 words or in the alternative to allow Appellee/Cross-Appellant leave to delete 929 words from his Appellee brief.

As the City described in its motion, Appellee/Cross-Appellant Alex Fairly has filed briefing in a cross appeal, and principal appeal, that raise numerous, novel issues. Appellee/Cross-Appellant has endeavored to limit its briefing to this Court as best as practicable. Notably, the City requests extensive additional words to respond to the Attorney General. The Attorney General addressed issues raised in the cross-appeal in its Appellee brief, filed on March 23, 2023, after Cross-Appellant's deadline to file his Reply Brief in the cross appeal. While the City is requesting to enlarge its word limit by almost 4,000 words to respond to the Attorney General – a significant enlargement – Cross-Appellant was denied the opportunity to respond to the Attorney General because the Attorney General addressed the cross appeal in its Appellee brief. Although Appellee/Cross-Appellant would not have opposed an extension of time for the Attorney General to respond to his cross appeal

(and even requested a unified briefing scheduled at the beginning of the appeal in an effort to add clarity to the briefing schedule), Appellee/Cross-Appellant now finds himself unable to respond to the Attorney General's response, while the City will be afforded additional time and words to do so.

Despite this, if the Court concludes Appellee/Cross-Appellant's briefing does not comply with Rule 9.4, Appellee/Cross-Appellant respectfully requests, in the alternative, for this Court to enlarge the aggregate word limit by 929 words or in the alternative to grant Appellee/Cross-Appellant leave to amend its brief to delete 929 words.

Appellee/Cross-Appellant further requests that this Court grant all other relief to which he may be entitled.

Respectfully submitted,

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Attorneys for Appellee/Cross-Appellant

CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for the Attorney General's office and the City on March 29, 2023, and they do not oppose the above Motion for Leave to Enlarge Aggregate Word Limit

/s/ Jillian L. Schumacher
Jillian L. Schumacher

CERTIFICATE OF SERVICE

I certify that on March 30, 2023, a true and correct copy of the foregoing document was delivered via electronic filing, email, or certified mail, return receipt requested, to all known counsel of record and interested parties.

/s/ Jillian L. Schumacher
Jillian L. Schumacher

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Filing Code Description: Motion
Filing Description: Ape Resp and Mt
Status as of 3/30/2023 1:22 PM CST

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Associated Case Party: Alex Fairly

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